

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**TEJ & TJJ LLC,**

Petitioner-Appellant,

v.

**Black Hawk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 11-07-1593**

**Parcel No. 8913-26-436-014**

On July 3, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant TEJ & TJJ LLC was represented by owner/member Tyler E. Junker. It requested a written consideration. Assistant County Attorney David J. Mason represented The Black Hawk County Board of Review. The Appeal Board having reviewed the entire record and being fully advised, finds:

***Findings of Fact***

TEJ & TJJ LLC (TEJ) owner of a residentially classified property located at 1021 Wellington Street, Waterloo, Iowa, appeals from the Black Hawk County Board of Review regarding its 2011 property assessment. The January 1, 2011, assessment is \$43,660, allocated as \$4500 in land value and \$39,160 in improvement value.

The subject property is a one-and-a-half-story frame, single-family residence built in 1903. The improvements include 972 square feet of above-grade finish and a full, unfinished basement. Additionally, there is a 110 square foot covered patio, and two small enclosed porches, as well as a 180 square-foot detached garage built in 1939 listed in normal condition. The improvements are normal condition with 35% physical depreciation. The site is 0.096 acres.

TEJ protested its assessment to the Black Hawk County Board of Review. On the protest it contended there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. Its petition stated: “purchased 7/29/2010 \$26,500 sale by government.” In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass’n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006)(unpublished). Accordingly, we consider TEJ’s claim as one of over-assessment under Iowa Code section 441.37(1)(b).

The Board of Review denied the protest.

TEJ then appealed to this Board reasserting its claim of over assessment. It asserts the correct value is \$34,500, allocated as \$4500 in land value and \$30,000 in improvement value.

Tyler Junker submitted a written statement and submitted one property he considered as a comparable sale. The comparable property is a duplex TEJ also purchased in 2010. We do not consider a duplex sufficiently comparable to a single-family home.

Additionally, we note the subject property, as well as the duplex, were purchased from the Secretary of Housing and Urban Development, a government entity. As such, the transactions would likely be considered as abnormal under Iowa law. Because the sales were the result of foreclosures they may not be reflective of market value.

The Board of Review did not submit any evidence.

Based upon the foregoing, we find evidence to support a claim of over-assessment is insufficient.

### ***Conclusions of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). TEJ & TJJ LLC did not provide sufficient evidence of the correct and actual market value of the subject property as of January 1, 2011. Therefore, a preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

We affirm the assessment of TEJ & TJJ LLC's property as determined by the Black Hawk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of TEJ & TJJ LLC's property located at 1021 Wellington Street, Waterloo, Iowa, of \$43,660, as of January 1, 2011, set by Black Hawk County Board of Review, is affirmed.

Dated this 20 day of August, 2012.

Karen Oberman  
Karen Oberman, Presiding Officer

Richard Stradley  
Richard Stradley, Board Chair

Jacqueline Rypma  
Jacqueline Rypma, Board Member

Cc:

TEJ & TJJ LLC  
PO Box 538  
Waterloo, Iowa 50704  
APPELLANT

David J. Mason  
3265 W 4th Street  
Waterloo, Iowa 50701  
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-30</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>